



Comptroller General
of the United States

Washington, D.C. 20548

J. Melody

Decision

Matter of: Government Project 0068
File: B-237469.2
Date: October 30, 1989

DIGEST

Request for reconsideration of dismissal of protest as untimely filed is denied where protest alleged agency improperly would not award portion of requirement, dismissal was based on failure to file protest within 10 working days after protester was advised of cancellation of that portion of the solicitation, and request does not show otherwise.

DECISION

Government Project 0068 (GP) requests reconsideration of our October 18, 1989, dismissal of its protest under U.S. Army Materiel Command request for proposals (RFP) No. DAAA09-89-R-0068, for five electro-mechanical devices. We deny the request.

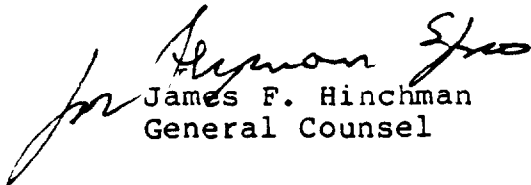
GP alleged in its protest letter dated September 12, not received in our Office until October 17, that the Army improperly had decided not to award one-fifth of the requirement, covering one part of the device, and instead to revise the technical data package for that part and resolicit that portion of the requirement. We dismissed the protest as untimely filed based on information received from the Army that it had notified GP of the cancellation of the one-fifth portion of the RFP on September 25, more than 10 working days prior to the October 17 filing of its protest; under our Bid Protest Regulations, such protests must be filed within 10 working days after the basis of protest was or should have been known. 4 C.F.R. § 21.2(a)(2) (1989).

In its reconsideration request, GP argues that it in fact was not on notice of its protest basis until October 6, when it was advised by the Army that an award--presumably covering the four-fifth portion of the RFP--had been made. Measuring from this date, GP's protest would be timely.

046926/139872

We find no basis for reconsidering this matter. The fact that GP may not have learned of the award of the four-fifth portion of the requirement until October 6 is irrelevant here. As indicated above, GP's protest concerns the Army's decision not to award the one-fifth portion, not the award of the four-fifth portion. It should have been clear to GP that the one-fifth portion would not be awarded when it was advised that the one-fifth portion was being canceled; again, the Army advised us that this occurred on September 25, more than 10 days before GP filed its protest, and the reconsideration request does not show otherwise.

The request for reconsideration is denied.


James F. Hinchman
General Counsel